

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Hennessy Industries, Inc.)
 Map 183-00-0, Parcel 52.00) Davidson County
 Industrial Property)
 Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$776,500	\$3,923,500	\$4,700,000	\$1,880,000

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 12, 2006 in Nashville, Tennessee. In attendance at the hearing were registered agent Patrick G. Price and Davidson County Property Assessor's representative Dennis Donovan.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 15.53 acre tract improved with a 188,300 square foot industrial building located at 1601 JP Hennessy Drive in LaVergne, Tennessee. Subject building was originally constructed in 1973 and has subsequently had some minor additions.

The taxpayer contended that subject property should be valued at \$3,766,000. In support of this position, Mr. Price introduced a written analysis essentially consisting of two parts. The first portion of the analysis included three comparable sales from Davidson County which sold for \$21.49, \$22.49 and \$31.47 per square foot. Given the relative quality of subject property vis-à-vis the comparables, Mr. Price maintained subject property should be appraised at \$20 per square foot or \$3,766,000.

The second portion of Mr. Price's analysis consisted of a spreadsheet summarizing 48 listings of industrial properties throughout Tennessee. Mr. Price asserted that subject property could be valued by initially utilizing the average list price of \$14.96 per square foot. Mr. Price then adjusted the average list price by a total of \$4.49 per square foot to arrive at an indicated value of \$19.45 per square foot before rounding.¹

The assessor contended that subject property should be valued at \$4,577,800. In support of this position, the sales comparison approach was introduced into evidence.

¹ Mr. Price considered adjustments for location, age, construction material, land-to-building ratio, building size and height.

Mr. Donovan maintained that the three comparables included in his analysis support an indicated value of \$20.19 per square foot after adjustments.²

Mr. Donovan also took exception to Mr. Price's methodology contending it did not comport with generally accepted appraisal practices. In particular, Mr. Donovan asserted that Mr. Price had adjusted an average list price by another average rather than adjusting the comparable sales individually.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$4,577,800 in accordance with Mr. Donovan's sales comparison approach.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

Respectfully, the administrative judge finds that Mr. Price's methodology does not comport with generally accepted appraisal practices and therefore lacks probative value. The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price*

² Mr. Donovan considered adjustments for office, air conditioning, age/condition, height, sprinklers and mezzanine.

of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.

5. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.

[Emphasis supplied]

Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001).

The administrative judge finds that the three comparable sales relied on by Mr. Price contained 75,600, 312,828 and 523,579 square feet and are simply not comparable in size. Moreover, the administrative judge finds that the comparables were not adjusted.

The administrative judge finds Mr. Price himself recognized the comparables lacked probative value when he stated that he “would not actually call [them] comparables.” According to Mr. Price, the sales were “included [in his analysis] to illustrate a point.” Mr. Price argued that as a matter of “commonsense” it was obvious subject property could not command \$20.00 per square foot.

The administrative judge finds that the 48 listings also lack probative value. The administrative judge finds that the listings include properties from a variety of urban and rural markets throughout Tennessee. The administrative judge finds that the properties contained anywhere from 95,296 to 763,000 square feet with list prices ranging from \$3.67 to \$25.79 per square foot. Respectfully, the administrative judge finds that a conclusion of value cannot be derived from this data standing by itself.

The administrative judge finds that Mr. Price’s analysis was further undercut by the fact he utilized the same comparables and listings in a companion appeal involving a 579,283 square foot manufacturing and warehouse facility. See *Reemay, Inc./BBA Fiberweb* (Davidson Co., Tax Year 2005) wherein the administrative judge granted the assessor’s motion for a directed verdict. The administrative judge finds that the same comparables and listings would not typically be appropriate when appraising industrial facilities containing 188,300 square feet and 579,283 square feet.

Based upon the foregoing, the administrative judge would normally affirm the current appraisal of \$4,700,000 based upon the presumption of correctness attaching to the decision of the Metropolitan Board of Equalization. In this case, however, the administrative judge finds that Mr. Donovan’s sales comparison approach comports with generally accepted appraisal practices and sets the upper limit of value.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$776,500	\$3,801,300	\$4,577,800	\$1,831,120

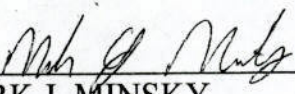
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 15th day of September, 2006.


 MARK J. MINSKY
 ADMINISTRATIVE JUDGE
 TENNESSEE DEPARTMENT OF STATE
 ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Patrick G. Price
 Jo Ann North, Assessor of Property